

THIRD DIVISION

[G.R. No. 171961, November 28, 2008]

**FERDINAND A. DELA CRUZ AND RENATO A. DELA CRUZ,
PETITIONERS, VS. AMELIA G. QUIAZON, RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Petitioners, Ferdinand and Renato dela Cruz, seek the review of the Court of Appeals Decision^[1] dated January 19, 2006 and Resolution dated March 21, 2006. The assailed decision affirmed the Department of Agrarian Reform Adjudication Board (DARAB) Resolution canceling the Certificate of Land Transfer (CLT) in the name of petitioners' father, Feliciano dela Cruz, and directing petitioners to vacate the property.

The case arose from the following antecedents:

Estela Dizon-Garcia, mother of respondent Amelia G. Quiazon, was the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 107576, situated in Sto. Domingo II, Capas, Tarlac. The property was brought under the coverage of Operation Land Transfer pursuant to Presidential Decree (P.D.) No. 27.^[2] On June 8, 1981, Feliciano dela Cruz, a tenant-farmer, was issued CLT No. 0-036207^[3] over a 3.7200-hectare portion of the said property.

On March 9, 1992, the heirs of Estela Dizon-Garcia executed a Deed of Extrajudicial Admission and Partition with Waiver adjudicating among themselves all the properties left by both of their parents, except for the subject property, which was adjudicated solely in favor of respondent.

On May 15, 1993, respondent filed a Complaint with the Provincial Adjudication Board of the Department of Agrarian Reform (DAR) against petitioner Ferdinand dela Cruz, alleging that in 1991, he entered into a leasehold contract with respondent, by virtue of which he bound himself to deliver 28 cavans of palay as rental. Since 1991, petitioner Ferdinand dela Cruz allegedly failed to deliver the stipulated rental because he had already abandoned the landholding. For this reason, respondent prayed for his ejectment from the property and the termination of their tenancy relationship.^[4]

In his Answer, petitioner Ferdinand dela Cruz, through petitioner Renato dela Cruz, alleged that the execution of the leasehold contract was erroneous considering that a CLT had already been issued in favor of his father. He contended that by virtue of the CLT, they became the owners of the landholding, without any obligation to pay rentals to respondent but only to pay amortizations to the Land Bank of the Philippines. He claimed that they paid the rentals until 1992, which rentals should

now be considered as advance payments for the land.^[5]

Later, respondent amended the complaint to implead Feliciano and Renato dela Cruz.^[6] The amended complaint alleged that petitioners Ferdinand and Feliciano dela Cruz were already immigrants to the United States of America (U.S.A.) and that petitioner Renato dela Cruz, the actual tiller of the land, was a usurper because his possession of the land was without the consent of the landowner. Respondent argued that by migrating to the U.S.A., Feliciano was deemed to have abandoned the landholding, for which reason his CLT should now be canceled.

In turn, petitioners amended their Answer. They averred that their father was just temporarily out of the country and that petitioner Renato's possession and cultivation of the land did not need the consent of the landowner because it was done in aid of their father's cultivation of the land.^[7]

On November 8, 1993, petitioners began paying amortizations to the Land Bank of the Philippines.^[8]

On December 21, 1993, Provincial Adjudicator Romeo B. Bello dismissed the complaint based on his finding that the landholding had not been abandoned by Feliciano considering that petitioner Renato dela Cruz, a member of Feliciano's immediate family, was in actual and physical possession thereof.^[9]

Respondent filed a Motion for Reconsideration. In an Order^[10] dated June 8, 1994, the Provincial Adjudicator denied respondent's motion for reconsideration for lack of merit and directed the Municipal Agrarian Reform Office of Capas, Tarlac, to determine whether the amortizations had been fully paid and, if so, to issue an Emancipation Patent.

On July 11, 1994, respondent filed a Notice of Appeal from said decision.^[11] During the pendency of the appeal, respondent executed, on October 6, 1994, a Deed of Conveyance and Waiver of her rights over the subject property in favor of her siblings.^[12] She then filed her Appeal Memorandum on November 29, 1994.^[13] The appeal was docketed as DARAB Case No. 3335.

Unknown to petitioners, respondent and her siblings, as heirs of Estela Dizon-Garcia, had filed an Application for Retention before the DAR Regional Office for Region III, as early as June 1, 1994.^[14] The application was granted on February 8, 1996. The dispositive portion of the Regional Director's Order reads:

WHEREFORE, all premises considered, Order is hereby issued, as follows:

1. GRANTING the application for retention of the Heirs of Estela Dizon-Garcia over a landholding covered by TCT No. 107576, with a total area of 12.5431, located at Sto. Domingo, Capas, Tarlac, to be divided among the heirs as follows:

Rosita Garcia - 3.9641 has.
Buena Garcia - 2.5796 has.
Bella Garcia - 3.0000 has.

Estellita Garcia - 3.0000 has.

2. ORDERING the herein landowners-applicant to maintain in peaceful possession the tenants of the subject landholding, namely: Renato dela Cruz, Carlos Aquino and Francisco Manayang as leaseholders; and
3. DIRECTING the herein landowners-applicant to cause the segregation of the retained area at their own expense and to submit report to this Office within thirty (30) days from receipt hereof.

SO ORDERED.^[15]

In a letter^[16] dated April 15, 1996, the heirs of Feliciano dela Cruz prayed for the setting aside of the said order. DAR Secretary Ernesto D. Garilao treated the letter as an appeal but, nevertheless, denied the same in an Order^[17] dated May 13, 1997.

On July 7, 1999, the DARAB finally dismissed respondent's appeal (DARAB Case No. 3335) from the decision of the Provincial Adjudicator.^[18] This decision became final and executory.^[19]

On October 19, 1999, respondent filed a Petition for Relief from Judgment,^[20] claiming that she just arrived from the U.S.A. on September 10, 1999 and it was only then that she found out about the July 7, 1999 DARAB Decision. She purportedly tried to contact her counsel only to discover that he died on December 21, 1994. Respondent insisted that petitioners had already abandoned the landholding and failed to pay the lease and amortization payments therefor, thus, the cancellation of their CLT was justified. She argued that the CLT was rendered moot by the DAR's grant of their application for retention of their property which included the subject landholding.

In its Resolution dated February 7, 2001, the DARAB granted the petition for relief from judgment. The DARAB set aside its July 7, 1999 Decision primarily based on the DAR Order granting the application for retention, as well as its finding that Ferdinand and Feliciano dela Cruz abandoned the subject landholding when they went to the U.S.A. The dispositive portion of the Resolution reads:

WHEREFORE, all of the above premises considered, and in the interest of agrarian justice, the decision of this Board dated July 7, 1999 is hereby SET ASIDE, and a new one is entered:

1. Declaring the dissolution of the tenancy relationship between the parties-litigants;
2. Declaring the cancellation of the CLT issued in the name of defendant Feliciano dela Cruz, the land subject thereof being part of the retention area of petitioner per order dated February 8, 1996; and

3. Ordering the respondents or any person acting in their behalf to vacate the subject land in favor of the petitioner.

SO ORDERED.^[21]

On August 7, 2002, the DARAB denied petitioners' motion for reconsideration. On November 27, 2003, the DARAB likewise denied petitioners' *Ex-Parte* Manifestation with Motion and Comments and Manifestation.^[22]

Petitioners thereafter filed a petition for review with the Court of Appeals (CA). Pending the resolution of the appeal, Feliciano dela Cruz passed away.

On January 19, 2006, the CA denied the petition. On March 21, 2006, the CA also denied petitioners' motion for reconsideration. Consequently, petitioners filed this petition for review on *certiorari* based on the following grounds:

A.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151, WHICH GAVE DUE COURSE TO THE PETITION FOR RELIEF FROM JUDGMENT.

B.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151 WHEREBY IT WAS RULED THAT PETITIONERS HAD THE OBLIGATION TO PAY LEASE RENTALS AND WERE GUILTY OF ABANDONMENT.

C.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE DECISION OF THE DARAB IN DSCA NO. 0151 WHEREBY IT WAS RULED THAT RESPONDENT HAD THE RIGHT TO RETAIN THE SUBJECT PROPERTY BY VIRTUE OF THE DECISION IN THE DAR RETENTION CASE.

^[23]

Petitioners argue that there was no basis for the grant of the petition for relief from judgment because it was respondent's own neglect, and not her counsel's demise, that caused the loss of her right to appeal. They claim that as early as June 5, 1995, respondent personally knew of the death of her lawyer and she could have employed a new counsel by then. To elaborate, petitioners narrate that, in another case pending before the Regional Trial Court (RTC) of Capas, Tarlac in which respondent is plaintiff, she was ordered to replace her former counsel and a new counsel, in fact, entered his appearance therein on June 5, 1995.^[24] And even assuming that respondent learned about the July 7, 1999 DARAB Decision only on September 10, 1999, she could have filed her appeal with the CA within 15 days from the said date.

Secondly, petitioners contend that respondent had no legal standing to file the petition for relief from judgment because she no longer had any interest in the subject property since respondent already waived her rights over the same in favor

of her siblings.

In addition, petitioners posit that with the issuance of the CLT in favor of their father, their tenancy relationship with respondent ceased, and ownership over the subject property was effectively transferred to them. In any case, they deny that they have abandoned the landholding as it is still being cultivated by petitioner Renato dela Cruz, son of the farmer-beneficiary. Assuming that they have abandoned the property, the right of action to oust them from the property lies with the Republic of the Philippines to whom the property will revert.

Finally, petitioners assert that the DAR Decision in the retention case is null and void for lack of due process; hence, the DARAB erred in relying on the said decision. They complain that they were not impleaded as parties in the said case, nor were they given notice of its filing. Petitioners likewise point out that the retention right of the heirs, who merely succeeded to the rights of their mother, the landowner, should be limited to five hectares only.

The petition is meritorious.

At the outset, we sustain respondent's personality to file the petition for relief from judgment. A petition for relief from judgment is a remedy available to a *party* who, through fraud, accident, mistake or excusable negligence, was prevented from taking an appeal from a judgment or final order therein. The personality to file a petition for relief from judgment, therefore, resides in a person who is a party to the principal case. This legal standing is not lost by the mere transfer of the disputed property *pendente lite*. The original party does not lose his personality as a real party-in-interest merely because of the transfer of interest to another *pendente lite*.

[25]

Nonetheless, even as we acknowledge the legal personality of respondent, we hold that the DARAB, as sustained by the CA, erred in granting the petition for relief from judgment.

A petition for relief from judgment is an equitable remedy that is allowed only in exceptional cases when there is no other available or adequate remedy. When a party has another remedy available to him, which may be either a motion for new trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking such appeal, he cannot avail himself of this remedy. Indeed, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence; otherwise, the petition for relief can be used to revive the right to appeal which had been lost thru inexcusable negligence.[26]

In this case, respondent's failure to avail herself of a motion for reconsideration or an appeal to the CA was due to her inexcusable negligence. Negligence to be excusable must be one which ordinary diligence and prudence could not have guarded against.[27] We note that a copy of the July 7, 1999 DARAB Decision was in fact served on the respondent herself at her residence, based on her narration that when she arrived from the U.S.A., her helper handed to her the envelope containing the DARAB Decision.[28] By her own account, she arrived on September 10, 1999.